*HON'BLE SRI JUSTICE L.NARASIMHA REDDY

+ **WRIT PETITION No.21062 OF 2005**

% 10th November 2005

P.V.S.Reddy S/o.P.Venkata Reddy

…Petitioner

And

$ The Depot Manager, APSRTC, Gooty Depot,

And others.

…Respondents

! Counsel for the petitioner : Mr.A.Rama Rao

^ Counsel for respondents : Mr.P.Vinayaka Swamy,

Standing Counsel,.

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> Head Note:

? Cases referred:

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O R D E R:

The petitioner is working as conductor in the Gooty Depot of APSRTC. He was issued an order of suspension, as well as a charge sheet, dated 5.7.2000, alleging that he failed to collect fare and issue ticket to a passenger. The petitioner submitted his explanation and denied the allegations. Thereafter, an enquiry was conducted, and the enquiry officer submitted the report, holding that the charge leveled against

the petitioner is proved. In turn, the Depot Manager, the first respondent, issued an order-cum-show-cause notice, dated 6.10.2000. Through that, on the one hand, he imposed the punishment of stoppage of annual increment, for a period of two years, with cumulative effect, and on the other hand, directed the petitioner to explain, as to why the period of suspension shall not be treated as, not on duty. The first respondent passed an order dated 18.11.2000, directing that the period of suspension shall be treated as, not on duty. The petitioner preferred an appeal to the Divisional Manager, the second respondent, against the orders passed by the first respondent. The appeal was rejected on 19.11.2001. The review filed by the petitioner to the Regional Manager, the third respondent, was rejected on 31.10.2002, as time barred. Hence, this writ petition.

Sri A.Rama Rao, learned counsel for the petitioner, submits that the first respondent committed certain procedural irregularities, in passing the orders against the petitioner, particularly, the one relating to stoppage of increment. He submits that the petitioner was not issued any show-cause notice, before the said punishment was inflicted.

Learned Standing Counsel for the respondents submits that once an enquiry was conducted, duly providing an opportunity to the petitioner, before the punishment was inflicted, it cannot be said that there is any procedural irregularity.

The first respondent appointed an enquiry officer, to enquire into the charges leveled against the petitioner. After conducting enquiry, the enquiry officer submitted his report. To that extent, the proceedings accorded with the procedure prescribed under law.

After receiving the report, the first respondent straight away inflicted the punishment of stoppage of annual increment, for a period of two years, with cumulative effect. It is a major penalty. Before inflicting any major penalty, the disciplinary authority is under obligation to conduct enquiry and issue show-cause notice, on the basis of the report. Though the first step was complied with, the first respondent did not comply with the second step, obviously under the impression that stoppage of increment is a minor penalty, and it can be imposed, without following the procedure prescribed for major penalties.

The first respondent has chosen to issue a show-cause notice to the petitioner, for the proposed action, in relation to the period of suspension. Had the show-cause notice been issued, in relation to the proposal to impose the punishment of stoppage of increment also, no complications would have arisen. Though the petitioner has challenged the order, dated 18.11.2000, which dealt with the period of suspension, this Court does not find any defect in the same.

For the foregoing reasons, the order dated 6.10.2000, insofar as it imposed the punishment of stoppage of annual increment, for a period of two years, with cumulative effect, upon the petitioner, is set aside. The matter is remanded to the first respondent for fresh consideration. In case, the first respondent intends to take any further action, it shall be open to him to do so, by issuing a show-cause notice. If no such show-cause notice is issued, within a period of four weeks from the date of receipt of a copy of this order, the matter shall be deemed to have assumed finality, and the petitioner shall be entitled to restoration of increment, which was denied to him under the impugned order. In such an event, the petitioner shall not be entitled for payment of any arrears, for the reason that he approached this Court after lapse of several years. He shall be entitled for all the other benefits.

The writ petition is allowed to the extent indicated above. There shall be no order as to costs.

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10th November 2005

Note: L.R.copies be marked.

(B/o)

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